General Assembly

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16 February 2010

Sixty-fourth session
Agenda item 62 (*a*)

Resolution adopted by the General Assembly

[*on the report of the Third Committee (A/64/433)*]

64/139. Violence against women migrant workers

The General Assembly,

Recalling all of its previous resolutions on violence against women migrant workers and those adopted by the Commission on the Status of Women, the Commission on Human Rights and the Commission on Crime Prevention and Criminal Justice, and the Declaration on the Elimination of Violence against Women,[1]

Reaffirming the provisions concerning women migrant workers contained in the outcome documents of the World Conference on Human Rights,[2] the International Conference on Population and Development,[3] the Fourth World Conference on Women[4] and the World Summit for Social Development[5] and their reviews,

Noting with appreciation the various activities initiated by entities of the United Nations system, such as the Regional Programme on Empowering Women Migrant Workers in Asia of the United Nations Development Fund for Women, the high-level panel discussion on the gender dimensions of international migration held by the Commission on the Status of Women at its fiftieth session, the discussions held by the Commission at its fifty-third session, during which it recognized the particular situation of women migrant domestic workers of all ages, and the general discussion on migrant domestic workers held by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families at its eleventh session, and noting the contribution of the International Labour Organization through the development of the Multilateral Framework on Labour Migration, as well as other activities through which the plight of women migrant workers continues to be assessed and alleviated,

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[1] See resolution 48/104.

[2] A/CONF.157/24 (Part I), chap. III.

[3] *Report of the International Conference on Population and Development, Cairo, 5–13 September 1994* (United Nations publication, Sales No. E.95.XIII.18), chap. I, resolution 1, annex.

[4] *Report of the Fourth World Conference on Women, Beijing, 4–15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annexes I and II.

[5] *Report of the World Summit for Social Development, Copenhagen, 6–12 March 1995* (United Nations publication, Sales No. E.96.IV.8), chap. I, resolution 1, annexes I and II.

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Recalling the discussions during the High-level Dialogue on International Migration and Development, held on 14 and 15 September 2006, which recognized, inter alia, the need for special protection for migrant women,

Taking note with appreciation of the United Nations Development Programme *Human Development Report 2009: Overcoming Barriers – Human Mobility and Development*,[6] which discussed, inter alia, the need to protect women migrant workers from abuse, exploitation and violence,

Noting the decision of the Governing Body of the International Labour Office to include discussion of the issue of decent work for domestic workers in the agenda for the ninety-ninth session of the International Labour Conference in June 2010,

Recognizing the increasing participation of women in international migration, driven in large part by socio-economic factors, and that this feminization of migration requires greater gender sensitivity in all policies and efforts related to the subject of international migration,

Stressing the shared responsibility of all stakeholders, in particular countries of origin, transit and destination, relevant regional and international organizations, the private sector and civil society, in promoting an environment that prevents and addresses violence against women migrant workers, and in this regard recognizing the importance of joint and collaborative approaches and strategies at the national, bilateral, regional and international levels,

Recognizing that women migrant workers are important contributors to social and economic development, and underlining the value and dignity of their labour, including the labour of domestic workers,

Acknowledging the contribution that women migrant workers make to development through the economic benefits that accrue to both the country of origin and the country of destination,

Recognizing the particular vulnerability of women and their children at all stages of the migration process, extending from the moment of deciding to migrate, and including transit, engagement in formal and informal employment, and integration into the host society, as well as during their return to their countries of origin,

Expressing deep concern at the continuing reports of grave abuses and violence committed against migrant women and girls, including gender-based violence, in particular sexual violence, trafficking, domestic and family violence, racist and xenophobic acts, abusive labour practices and exploitative conditions of work,

Recognizing that the intersection of, inter alia, gender, age, class and ethnic discrimination and stereotypes can compound the discrimination faced by women migrant workers,

Reaffirming the commitment to protect and promote the human rights of all women, including, without discrimination, indigenous women who migrate for work, and in this regard noting the attention paid in the United Nations Declaration on the Rights of Indigenous Peoples[7] to the elimination of all forms of violence and discrimination against indigenous women, as appropriate,

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[6] United Nations publication, Sales No. E.09.III.B.1.

[7] Resolution 61/295, annex.

Concerned that many migrant women who are employed in the informal economy and in less skilled work are especially vulnerable to abuse and exploitation, underlining in this regard the obligation of States to protect the human rights of migrants so as to prevent abuse and exploitation, and observing with concern that many women migrant workers take on jobs for which they may be overqualified and in which, at the same time, they may be more vulnerable because of poor pay and inadequate social protection,

Emphasizing the need for objective, comprehensive and broad-based information, including sex- and age-disaggregated data and statistics, and gender-sensitive indicators for research and analysis, and a wide exchange of experience and lessons learned by individual Member States and civil society in the formulation of policies and concrete strategies to address the problem of violence against women migrant workers,

Realizing that the movement of a significant number of women migrant workers may be facilitated and made possible by means of fraudulent or irregular documentation and sham marriages with the object of migration, that this may be facilitated through, inter alia, the Internet, and that those women migrant workers are more vulnerable to abuse and exploitation,

Recognizing the importance of exploring the link between migration and trafficking in order to further efforts towards protecting women migrant workers from violence, discrimination, exploitation and abuse,

Encouraged by some measures adopted by some countries of destination to alleviate the plight of women migrant workers residing in their areas of jurisdiction, such as the establishment of protection mechanisms for migrant workers, facilitating their access to mechanisms for reporting complaints, or providing assistance during legal proceedings,

Underlining the important role of relevant United Nations treaty bodies in monitoring the implementation of human rights conventions and the relevant special procedures, within their respective mandates, in addressing the problem of violence against women migrant workers and in protecting and promoting their human rights and welfare,

1. *Takes note with appreciation* of the report of the Secretary-General;[8]

2. *Encourages* Member States to consider signing and ratifying or acceding to relevant International Labour Organization conventions and to consider signing and ratifying or acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,[9] the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,[10] and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime,[11] as well as all human rights treaties that contribute to the protection of the rights of women migrant workers;

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[8] A/64/152.

[9] United Nations, *Treaty Series*, vol. 2220, No. 39481.

[10] Ibid., vol. 2237, No. 39574.

[11] Ibid., vol. 2241, No. 39574.

3. *Takes note* of the report of the Special Rapporteur of the Human Rights Council on violence against women, its causes and consequences entitled "Political economy of women's human rights", submitted to the Council at its eleventh session,[12] in particular her elaboration in that report of the current issues of the exploitation and violence that women migrants face in the context of the current global economic trends and crises;

4. *Encourages* all United Nations special rapporteurs on human rights whose mandates touch on the issues of violence against women migrant workers to improve the collection of information on and analysis of the current challenges facing women migrant workers, and also encourages Governments to cooperate with the special rapporteurs in this regard;

5. *Calls upon* all Governments to incorporate a human rights and gender perspective in legislation and policies on international migration and on labour and employment, consistent with their human rights obligations and commitments under human rights instruments, for the prevention of and protection of migrant women against violence and discrimination, exploitation and abuse, and to take effective measures to ensure that such migration and labour policies do not reinforce discrimination and bias against women;

6. *Calls upon* Governments to adopt or strengthen measures to protect the human rights of women migrant workers, regardless of their immigration status, including in policies that regulate the recruitment and deployment of women migrant workers, and to consider expanding dialogue among States on devising innovative methods to promote legal channels of migration, inter alia, in order to deter illegal migration;

7. *Urges* Governments to enhance bilateral, regional, interregional and international cooperation to address violence against women migrant workers, fully respecting international law, including international human rights law, as well as to strengthen efforts in reducing the vulnerability of women migrant workers, including by fostering sustainable development alternatives to migration in countries of origin;

8. *Also urges* Governments to take into account the best interests of the child, by adopting or strengthening measures to promote and protect the human rights of migrant girls, including unaccompanied girls, regardless of their immigration status, so as to prevent labour and economic exploitation, discrimination, sexual harassment, violence and sexual abuse in the workplace, including in domestic work;

9. *Further urges* Governments, in cooperation with international organizations, civil society, including non-governmental organizations, and the private sector, to strengthen the focus on and funding support for the prevention of violence against women migrant workers, in particular by promoting the access of women to meaningful and gender-sensitive information and education on, inter alia, the costs and benefits of migration, rights and benefits to which they are entitled in the countries of origin and employment, overall conditions in countries of employment and procedures for legal migration, as well as to ensure that laws and policies governing recruiters, employers and intermediaries promote adherence to and respect for the human rights of migrant workers, particularly women;

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[12] A/HRC/11/6.

10. *Encourages* all States to remove obstacles that may prevent the transparent, safe, unrestricted and expeditious transfer of remittances of migrants to their countries of origin or to any other countries, in conformity with applicable legislation, and to consider, as appropriate, measures to solve other problems that may impede women migrant workers' access to and management of their economic resources;

11. *Calls upon* Governments to recognize the right of women migrant workers, regardless of immigration status, to have access to emergency health care and in this regard to ensure that women migrant workers are not discriminated against on the grounds of pregnancy and childbirth;

12. *Urges* States that have not yet done so to adopt and implement legislation and policies that protect all women migrant domestic workers, and to grant women migrant workers in domestic service access to transparent mechanisms for bringing complaints against employers, while stressing that such instruments should not punish women migrant workers, and calls upon States to promptly investigate and punish all violations;

13. *Calls upon* Governments, in cooperation with international organizations, non-governmental organizations, the private sector and other stakeholders, to provide women migrant workers who are victims of violence with the full range of immediate assistance and protection, such as access to counselling, legal and consular assistance and temporary shelter, as well as mechanisms to allow the views and concerns of victims to be presented and considered at appropriate stages of proceedings, including other measures that will allow victims to be present during the judicial process, to the extent possible, as well as to establish reintegration and rehabilitation schemes for returning women migrant workers;

14. *Also calls upon* Governments, in particular those of the countries of origin and destination, to put in place penal and criminal sanctions in order to punish perpetrators of violence against women migrant workers and intermediaries, and redress and justice mechanisms that victims can access effectively, as well as to ensure that migrant women victims of violence do not suffer from re-victimization, including by authorities;

15. *Urges* all States to adopt effective measures to put an end to the arbitrary arrest and detention of women migrant workers and to take action to prevent and punish any form of illegal deprivation of the liberty of women migrant workers by individuals or groups;

16. *Encourages* Governments to formulate and implement training programmes for their law enforcers, immigration officers and border officials, diplomatic and consular officials, prosecutors and service providers, with a view to sensitizing those public-sector workers to the issue of violence against women migrant workers and imparting to them the necessary skills and attitude to ensure the delivery of proper, professional and gender-sensitive interventions;

17. *Calls upon* States, in accordance with the provisions of article 36 of the Vienna Convention on Consular Relations,[13] to ensure that, if a woman migrant worker is arrested or committed to prison or custody pending trial, or is detained in any other manner, competent authorities respect her freedom to communicate with

[13] United Nations, *Treaty Series*, vol. 596, No. 8638.

and have access to the consular officials of the country of her nationality, and in this regard to inform without delay, if that woman migrant worker so requests, the consular post of her State of nationality;

18. *Invites* Governments, the United Nations system and other concerned intergovernmental and non-governmental organizations to cooperate towards a better understanding of the issues concerning women and international migration, and to improve the collection, dissemination and analysis of sex- and age-disaggregated data and information in order to assist in the formulation of migration and labour policies that are, inter alia, gender-sensitive and that protect human rights, as well as to aid in policy assessment;

19. *Encourages* concerned Governments, in particular those of the countries of origin, transit and destination, to avail themselves of the expertise of the United Nations, including the Statistics Division of the Department of Economic and Social Affairs of the Secretariat, the United Nations Development Fund for Women and the International Research and Training Institute for the Advancement of Women, to develop appropriate national data-collection and analysis methodologies that will generate comparable data and tracking and reporting systems on violence against women migrant workers;

20. *Notes with appreciation* the elaboration and adoption by the Committee on the Elimination of Discrimination against Women of general recommendation No. 26, on women migrant workers,[14] and calls upon States parties to the Convention on the Elimination of All Forms of Discrimination against Women[15] to consider the recommendation;

21. *Requests* the Secretary-General to report to the General Assembly at its sixty-sixth session on the problem of violence against women migrant workers and on the implementation of the present resolution, taking into account updated information from the organizations of the United Nations system, in particular the International Labour Organization, the United Nations Development Programme, the United Nations Development Fund for Women, the International Research and Training Institute for the Advancement of Women and the United Nations Office on Drugs and Crime, as well as the reports of special rapporteurs that refer to the situation of women migrant workers and other relevant sources, such as the International Organization for Migration, including non-governmental organizations.

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[14] *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 38* (A/64/38), part one, annex I, decision 42/I.

[15] United Nations, *Treaty Series*, vol. 1249, No. 20378.

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Sixty-fourth session
Agenda item 62 (*a*)

Resolution adopted by the General Assembly

[*on the report of the Third Committee (A/64/433)*]

64/140. Improvement of the situation of women in rural areas

The General Assembly,

Recalling its resolutions 56/129 of 19 December 2001, 58/146 of 22 December 2003, 60/138 of 16 December 2005 and 62/136 of 18 December 2007,

Recalling also the importance attached to the problems of rural women in the Nairobi Forward-looking Strategies for the Advancement of Women,[1] the Beijing Declaration and Platform for Action adopted by the Fourth World Conference on Women[2] and the outcome documents of the twenty-third special session of the General Assembly entitled "Women 2000: gender equality, development and peace for the twenty-first century",[3] including the review and appraisal of the implementation of the outcomes, and in the Convention on the Elimination of All Forms of Discrimination against Women,[4]

Recalling further the United Nations Millennium Declaration,[5] in which Member States resolved, inter alia, to promote gender equality and the empowerment of women as effective ways to combat poverty, hunger and disease and to stimulate development that is truly sustainable, and the 2005 World Summit Outcome,[6] in which they also resolved to promote gender equality and eliminate pervasive gender discrimination by taking all the necessary resolute action,

Welcoming the declaration adopted by the Commission on the Status of Women at its forty-ninth session in the context of the review and appraisal of the implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly,[7]

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[1] *Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, Nairobi, 15–26 July 1985* (United Nations publication, Sales No. E.85.IV.10), chap. I, sect. A.

[2] *Report of the Fourth World Conference on Women, Beijing, 4–15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annexes I and II.

[3] Resolution S-23/2, annex, and resolution S-23/3, annex.

[4] United Nations, *Treaty Series*, vol. 1249, No. 20378.

[5] See resolution 55/2.

[6] See resolution 60/1.

[7] See *Official Records of the Economic and Social Council, 2005, Supplement No. 7* and corrigendum (E/2005/27 and Corr.1), chap. I, sect. A; see also Economic and Social Council decision 2005/232.

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Noting the attention paid to the improvement of the situation of indigenous women in rural areas in the United Nations Declaration on the Rights of Indigenous Peoples,[8]

Recognizing the work of relevant United Nations agencies, funds and programmes, especially the United Nations Educational, Scientific and Cultural Organization, in promoting education for all, giving particular attention to girls and women in rural areas,

Welcoming the Monterrey Consensus of the International Conference on Financing for Development,[9] as well as the Johannesburg Declaration on Sustainable Development and the Plan of Implementation of the World Summit on Sustainable Development ("Johannesburg Plan of Implementation"),[10] in which Governments were called upon to mainstream the gender perspective into development at all levels and in all sectors, and recalling the Follow-up International Conference on Financing for Development to Review the Implementation of the Monterrey Consensus, held in Doha from 29 November to 2 December 2008,

Welcoming also the ministerial declaration of the high-level segment of the substantive session of 2003 of the Economic and Social Council, adopted on 2 July 2003,[11] which stressed the need for rural development to become an integral part of national and international development policies and of activities and programmes of the United Nations system, and called for an enhanced role for rural women at all levels of rural development, including decision-making,

Recalling the World Summit on the Information Society, held in Geneva in 2003 and Tunis in 2005, as well as the Tunis Agenda for the Information Society, adopted by the World Summit in 2005,[12] which reaffirmed the commitment to building capacity in information and communications technology for all and confidence in the use of information and communications technology by all, including women, indigenous peoples and remote and rural communities,

Recognizing the critical role and contribution of rural women, including indigenous women, in enhancing agricultural and rural development, improving food security and eradicating rural poverty,

Reiterating that eradicating poverty is the greatest global challenge facing the world today, and an indispensable requirement for sustainable development, in particular for developing countries, while recognizing that rural areas of developing countries continue to be home to the vast majority of the world's poor people,

Recognizing the contributions of older rural women to the family and the community, especially in cases where they are left behind by migrating adults or as a result of other socio-economic factors to assume childcare, household and agricultural responsibility,

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[8] Resolution 61/295, annex.

[9] *Report of the International Conference on Financing for Development, Monterrey, Mexico, 18–22 March 2002* (United Nations publication, Sales No. E.02.II.A.7), chap. I, resolution 1, annex.

[10] *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August–4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 1, annex, and resolution 2, annex.

[11] See *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 3* (A/58/3/Rev.1), chap. III, para. 35.

[12] See A/60/687, chap. I, sect. B.

Reiterating the call for fair globalization and the need to translate growth into eradication of poverty, including for rural women, and in this regard applauding the resolve to make the goals of full and productive employment and decent work for all, including for rural women, a central objective of relevant national and international policies as well as national development strategies, including poverty eradication strategies,

Recognizing the urgent need to take appropriate measures aimed at further improving the situation of women in rural areas,

1. *Takes note* of the report of the Secretary-General;[13]

2. *Urges* Member States, in collaboration with the organizations of the United Nations and civil society, as appropriate, to continue their efforts to implement the outcome of and to ensure an integrated and coordinated follow-up to the United Nations conferences and summits, including their reviews, and to attach greater importance to the improvement of the situation of rural women, including indigenous women, in their national, regional and global development strategies by, inter alia:

(*a*) Creating an enabling environment for improving the situation of rural women and ensuring systematic attention to their needs, priorities and contributions, including through enhanced cooperation and a gender perspective, and their full participation in the development, implementation and follow-up of macroeconomic policies, including development policies and programmes and poverty eradication strategies, including poverty reduction strategy papers where they exist, based on internationally agreed development goals, including the Millennium Development Goals;

(*b*) Pursuing the political and socio-economic empowerment of rural women and supporting their full and equal participation in decision-making at all levels, including through affirmative action, where appropriate, and support for women's organizations, labour unions or other associations and civil society groups promoting rural women's rights;

(*c*) Promoting consultation with and the participation of rural women, including indigenous women and women with disabilities, through their organizations and networks, in the design, development and implementation of gender equality and rural development programmes and strategies;

(*d*) Ensuring that the perspectives of rural women are taken into account and that they participate in the design, implementation, follow-up and evaluation of policies and activities related to emergencies, including natural disasters, humanitarian assistance, peacebuilding and post-conflict reconstruction, and taking appropriate measures to eliminate all forms of discrimination against rural women in this regard;

(*e*) Integrating a gender perspective into the design, implementation, follow-up and evaluation of development policies and programmes, including budget policies, paying increased attention to the needs of rural women so as to ensure that they benefit from policies and programmes adopted in all spheres and that the disproportionate number of rural women living in poverty is reduced;

[13] A/64/190.

(*f*) Investing in and strengthening efforts to meet the basic needs of rural women through improved availability, access to and use of critical rural infrastructure, such as energy and transport, capacity-building and human resources development measures and the provision of a safe and reliable water supply and sanitation, nutritional programmes, affordable housing programmes, education and literacy programmes, and health and social support measures, including in the areas of sexual and reproductive health and HIV/AIDS prevention, treatment, care and support services;

(*g*) Strengthening measures, including resource generation, to accelerate progress towards the achievement of millennium development goal 5 on improving maternal health by addressing the specific health needs of rural women and taking concrete measures to enhance and provide access to the highest attainable standards of health for women in rural areas, as well as quality, affordable and universally accessible primary health care and support services, including in such areas of sexual and reproductive health as prenatal and post-natal health care, emergency obstetric care, family planning information and increasing knowledge, awareness and support for the prevention of sexually transmitted diseases, including HIV/AIDS;

(*h*) Designing and implementing national policies that promote and protect the enjoyment by rural women and girls of all human rights and fundamental freedoms and creating an environment that does not tolerate violations of their rights, including domestic violence, sexual violence and all other forms of gender-based violence;

(*i*) Ensuring that the rights of older women in rural areas are taken into account with regard to their equal access to basic social services, appropriate social protection/social security measures, equal access to and control of economic resources, and empowerment of older women through access to financial and infrastructure services, with special focus on support to older women, including indigenous women, who often have access to few resources and are more vulnerable;

(*j*) Promoting the rights of women and girls with disabilities in rural areas, including by ensuring access on an equal basis to productive employment and decent work, economic and financial resources and disability-sensitive infrastructure and services, in particular in relation to health and education, as well as by ensuring that their priorities and needs are fully incorporated into policies and programmes, inter alia, through their participation in decision-making processes;

(*k*) Developing specific assistance programmes and advisory services to promote economic skills of rural women in banking, modern trading and financial procedures and providing microcredit and other financial and business services to a greater number of women in rural areas, in particular female-headed households, for their economic empowerment;

(*l*) Mobilizing resources, including at the national level and through official development assistance, for increasing women's access to existing savings and credit schemes, as well as targeted programmes that provide women with capital, knowledge and tools that enhance their economic capacities;

(*m*) Integrating increased employment opportunities for rural women into all international and national development strategies and poverty eradication strategies, including by expanding non-agricultural employment opportunities, improving working conditions and increasing access to productive resources;

(*n*) Taking steps towards ensuring that women's unpaid work and contributions to on-farm and off-farm production, including income generated in the informal sector, are recognized and supporting remunerative non-agricultural employment of rural women, improving working conditions and increasing access to productive resources;

(*o*) Promoting programmes to enable rural women and men to reconcile their work and family responsibilities and to encourage men to share, equally with women, household and childcare responsibilities;

(*p*) Considering the adoption, where appropriate, of national legislation to protect the knowledge, innovations and practices of women in indigenous and local communities relating to traditional medicines, biodiversity and indigenous technologies;

(*q*) Addressing the lack of timely, reliable and sex-disaggregated data, including by intensifying efforts to include women's unpaid work in official statistics, and developing a systematic and comparative research base on rural women that will inform policy and programme decisions;

(*r*) Designing, revising and implementing laws to ensure that rural women are accorded full and equal rights to own and lease land and other property, including through the right to inheritance, and undertaking administrative reforms and all necessary measures to give women the same right as men to credit, capital, appropriate technologies and access to markets and information;

(*s*) Supporting a gender-sensitive education system that considers the specific needs of rural women in order to eliminate gender stereotypes and discriminatory tendencies affecting them;

(*t*) Developing the capacity of personnel working in the areas of national development strategies, rural development, agricultural development, poverty eradication and implementation of the Millennium Development Goals to identify and address the challenges and constraints facing rural women, including through training programmes and the development and dissemination of methodologies and tools, while acknowledging the technical assistance of relevant United Nations organizations;

3. *Strongly encourages* Member States, United Nations entities and all other relevant stakeholders to take measures to identify and address any negative impact of the current global crises on women in rural areas, including legislation, policies and programmes that strengthen gender equality and the empowerment of women;

4. *Invites* the Commission on the Status of Women to continue to pay due attention to the situation of rural women in the consideration of its priority themes;

5. *Requests* the relevant organizations and bodies of the United Nations system, in particular those dealing with issues of development, to address and support the empowerment of rural women and their specific needs in their programmes and strategies;

6. *Stresses* the need to identify the best practices for ensuring that rural women have access to and full participation in the area of information and communications technology, to address the priorities and needs of rural women and girls as active users of information and to ensure their participation in developing and implementing global, regional and national information and communications technology strategies;

7. *Encourages* Member States, the United Nations and relevant organizations of its system to ensure that the needs of rural women are mainstreamed into the integrated process of follow-up to the major conferences and summits in the economic and social fields, in particular the Millennium Summit, the World Summit on Sustainable Development, the International Conference on Financing for Development and the Follow-up International Conference on Financing for Development to Review the Implementation of the Monterrey Consensus, the 2005 review and appraisal of the progress achieved in implementing all the commitments made in the Beijing Declaration and Platform for Action[2] and the outcome of the twenty-third special session of the General Assembly,[3] and the 2005 World Summit;

8. *Calls upon* Member States to take into consideration the concluding observations and recommendations of the Committee on the Elimination of Discrimination against Women concerning their reports to the Committee when formulating policies and designing programmes focused on the improvement of the situation of rural women, including those to be developed and implemented in cooperation with relevant international organizations;

9. *Invites* Governments, relevant international organizations and the specialized agencies to continue to observe the International Day of Rural Women annually, on 15 October, as proclaimed in its resolution 62/136;

10. *Requests* the Secretary-General to report to the General Assembly at its sixty-sixth session on the implementation of the present resolution.

65th plenary meeting
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Sixty-fourth session
Agenda item 62 (*b*)

Resolution adopted by the General Assembly

[*on the report of the Third Committee (A/64/433)*]

64/141. Follow-up to the Fourth World Conference on Women and full implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly

The General Assembly,

Recalling its previous resolutions on the question, including resolution 63/159 of 18 December 2008,

Deeply convinced that the Beijing Declaration and Platform for Action[1] and the outcome of the twenty-third special session of the General Assembly entitled "Women 2000: gender equality, development and peace for the twenty-first century"[2] are important contributions to the achievement of gender equality and the empowerment of women, and must be translated into effective action by all States, the United Nations system and other organizations concerned,

Reaffirming the commitments to gender equality and the advancement of women made at the Millennium Summit,[3] the 2005 World Summit[4] and other major United Nations summits, conferences and special sessions, and reaffirming also that their full, effective and accelerated implementation is integral to achieving the internationally agreed development goals, including the Millennium Development Goals,

Welcoming progress made towards achieving gender equality, but stressing that challenges and obstacles remain in the implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session,

Recognizing that the responsibility for the implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session rests primarily at the national level and that strengthened efforts are necessary in this respect, and reiterating that enhanced international cooperation is essential for full, effective and accelerated implementation,

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[1] *Report of the Fourth World Conference on Women, Beijing, 4–15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annexes I and II.

[2] Resolution S-23/2, annex, and resolution S-23/3, annex.

[3] See resolution 55/2.

[4] See resolution 60/1.

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Noting that the Commission on the Status of Women will undertake, at its fifty-fourth session, a review of the implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session, emphasizing the sharing of experiences and good practices, with a view to overcoming remaining obstacles and new challenges, including those related to the Millennium Development Goals,

Taking into consideration the theme of the annual ministerial review to be held by the Economic and Social Council in 2010, "Implementing the internationally agreed goals and commitments in regard to gender equality and empowerment of women",

Welcoming the work of the Commission on the Status of Women in reviewing the implementation of the Beijing Declaration and Platform for Action, and noting with appreciation all its agreed conclusions, including the latest, on the equal sharing of responsibilities between women and men, including caregiving in the context of HIV/AIDS, adopted by the Commission at its fifty-third session,[5]

Reaffirming that gender mainstreaming is a globally accepted strategy for promoting the empowerment of women achieving gender equality by transforming structures of inequality, and reaffirming also the commitment to actively promote the mainstreaming of a gender perspective in the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and social spheres, as well as the commitment to strengthen the capabilities of the United Nations system in the area of gender equality,

Taking note with appreciation of the report of the Secretary-General on mainstreaming a gender perspective into all policies and programmes in the United Nations system,[6] and stressing the importance of the continued integration of a gender perspective in the work and activities of the Human Rights Council,

Reaffirming the commitments in regard to gender equality and the empowerment of women in the Doha Declaration on Financing for Development: outcome document of the Follow-up International Conference on Financing for Development to Review the Implementation of the Monterrey Consensus,[7]

Bearing in mind the challenges and obstacles to changing discriminatory attitudes and gender stereotypes, and stressing that challenges and obstacles remain in the implementation of international standards and norms to address the inequality between men and women,

Reaffirming the Declaration of Commitment on HIV/AIDS[8] and the Political Declaration on HIV/AIDS adopted at the High-level Meeting on HIV/AIDS, held from 31 May to 2 June 2006,[9] which, inter alia, acknowledged the feminization of the pandemic,

Expressing serious concern that the urgent goal of 50/50 gender balance in the United Nations system, especially at senior and policymaking levels, with full respect for the principle of equitable geographical distribution, in conformity with Article 101, paragraph 3, of the Charter of the United Nations, remains unmet, and

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[5] See *Official Records of the Economic and Social Council, 2009, Supplement No. 7* (E/2009/27), chap. I, sect. A, para. 1.

[6] E/2009/71.

[7] Resolution 63/239, annex.

[8] Resolution S-26/2, annex.

[9] Resolution 60/262, annex.

that the representation of women in the United Nations system has remained almost static, with negligible improvement in some parts of the system, and in some cases has even decreased, as reflected in the report of the Secretary-General on the improvement of the status of women in the United Nations system,[10]

Reaffirming the important role of women in the prevention and resolution of conflicts and in peacebuilding,

Recalling Security Council resolutions 1325 (2000) of 31 October 2000 and 1820 (2008) of 19 June 2008 on women and peace and security, and welcoming the adoption of Council resolution 1882 (2009) of 4 August 2009 on children and armed conflict and Council resolutions 1888 (2009) of 30 September 2009 and 1889 (2009) of 5 October 2009 on women and peace and security,

Welcoming its resolution 63/311 of 14 September 2009, in particular the provisions on strengthening the institutional arrangements for support of gender equality and the empowerment of women, reaffirming its strong support expressed therein for the consolidation of the Office of the Special Adviser on Gender Issues and Advancement of Women, the Division for the Advancement of Women, the United Nations Development Fund for Women and the International Research and Training Institute for the Advancement of Women into a composite entity, taking into account the existing mandates, which would be led by an Under-Secretary-General, and looking forward to the full implementation of resolution 63/311,

1. *Takes note with appreciation* of the report of the Secretary-General on the measures taken and progress achieved in follow-up to the implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly;[11]

2. *Reaffirms* the Beijing Declaration and Platform for Action adopted at the Fourth World Conference on Women,[1] the outcome of the twenty-third special session of the General Assembly,[2] and the declaration adopted on the occasion of the ten-year review and appraisal of the implementation of the Beijing Declaration and Platform for Action at the forty-ninth session of the Commission on the Status of Women,[12] and also reaffirms its commitment to their full, effective and accelerated implementation;

3. *Also reaffirms* the primary and essential role of the General Assembly and the Economic and Social Council, as well as the catalytic role of the Commission on the Status of Women, in promoting gender equality and the empowerment of women based on the full implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session, and in promoting and monitoring gender mainstreaming within the United Nations system;

4. *Recognizes* that the implementation of the Beijing Declaration and Platform for Action and the fulfilment of the obligations of States parties under the Convention on the Elimination of All Forms of Discrimination against Women[13] are mutually reinforcing in respect of achieving gender equality and the empowerment of women, and in this regard welcomes the contributions of the Committee on the

[10] A/63/364.

[11] A/64/218.

[12] See *Official Records of the Economic and Social Council, 2005, Supplement No. 7* and corrigendum (E/2005/27 and Corr.1), chap. I, sect. A; see also Economic and Social Council decision 2005/232.

[13] United Nations, *Treaty Series*, vol. 1249, No. 20378.

Elimination of Discrimination against Women to promoting the implementation of the Platform for Action and the outcome of the twenty-third special session, and invites States parties to the Convention to include information on measures taken to enhance implementation at the national level in their reports to the Committee under article 18 of the Convention;

5. *Calls upon* States parties to comply fully with their obligations under the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto [14] and to take into consideration the concluding observations as well as the general recommendations of the Committee, urges States parties to consider limiting the extent of any reservations that they lodge to the Convention, to formulate any reservations as precisely and narrowly as possible, and to regularly review such reservations with a view to withdrawing them so as to ensure that no reservation is incompatible with the object and purpose of the Convention, also urges all Member States that have not yet ratified or acceded to the Convention to consider doing so, and calls upon those Member States that have not yet done so to consider signing and ratifying or acceding to the Optional Protocol;

6. *Welcomes* the opportunities provided in intergovernmental bodies in 2010 to accelerate progress in the achievement of gender equality, the empowerment of women and gender balance, including the fifteen-year review of the implementation of the Beijing Declaration and Platform for Action and the review of the outcome of the twenty-third special session at the fifty-fourth session of the Commission on the Status of Women, the annual ministerial review to be held by the Economic and Social Council on the theme "Implementing the internationally agreed goals and commitments in regard to gender equality and empowerment of women", the high-level plenary meeting of the General Assembly on the Millennium Development Goals, and the tenth anniversary of the adoption of Security Council resolution 1325 (2000);

7. *Encourages* Member States, United Nations entities, international and regional organizations and other relevant actors to fully utilize the opportunities provided in intergovernmental bodies in 2010, including intergovernmental consultations, with a view to ensuring prompt progress as set forth in resolution 63/311, including strengthening the institutional arrangements for the support of gender equality and the empowerment of women, so as to accelerate progress in the achievement of gender equality and the empowerment of women based on the full and effective implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session;

8. *Underlines* the significance of the fifty-fourth session of the Commission on the Status of Women, at which the Commission will undertake the fifteen-year review of the implementation of the Beijing Declaration and Platform for Action and the review of the outcome of the twenty-third special session, emphasizing the sharing of experiences and good practices, with a view to overcoming remaining obstacles and new challenges, including those related to the full realization of all Millennium Development Goals, including goal 3;

9. *Encourages* all actors, inter alia, Governments, the United Nations system, other international organizations and civil society, to continue to support the work of the Commission on the Status of Women in fulfilling its central role in the follow-up to and review of the implementation of the Beijing Declaration and

[14] Ibid., vol. 2131, No. 20378.

Platform for Action and the outcome of the twenty-third special session, and, as applicable, to carry out its recommendations, and welcomes in this regard the revised programme and methods of work of the Commission adopted at its fifty-third session,[15] which continue to focus attention on the sharing of experiences, lessons learned and good practices in overcoming challenges to full implementation at the national and international levels as well as to the evaluation of progress in the implementation of priority themes;

10. *Encourages* participation at a high political level in the fifty-fourth session of the Commission on the Status of Women and the 2010 annual ministerial review of the Economic and Social Council;

11. *Invites* States and requests relevant bodies of the United Nations system to publicize the forthcoming sessions of the Commission on the Status of Women and the Economic and Social Council, including through consultation with civil society;

12. *Calls upon* Governments and the organs and relevant funds, programmes and specialized agencies of the United Nations system, within their respective mandates, and other international and regional organizations, including financial institutions, and all relevant actors of civil society, including non-governmental organizations, to intensify action to achieve the full and effective implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session;

13. *Reaffirms* that States have an obligation to exercise due diligence to prevent violence against women and girls, provide protection to the victims and investigate, prosecute and punish the perpetrators of violence against women and girls, and that failure to do so violates and impairs or nullifies the enjoyment of their human rights and fundamental freedoms, calls upon Governments to elaborate and implement laws and strategies to eliminate violence against women and girls, encourages and supports men and boys in taking an active part in the prevention and elimination of all forms of violence, encourages increased understanding among men and boys of how violence harms girls, boys, women and men and undermines gender equality, encourages all actors to speak out against any violence against women, and in this regard welcomes the Secretary-General's campaign "UNiTE to End Violence against Women" and the United Nations Development Fund for Women social mobilization and advocacy platform "Say NO to violence against women";

14. *Reiterates its call* to the United Nations system, including the main organs, their main committees and subsidiary bodies, new functions such as the annual ministerial review and the Development Cooperation Forum of the Economic and Social Council, and the funds, programmes and specialized agencies, to increase efforts to fully mainstream a gender perspective into all issues under their consideration and within their mandates, as well as in all United Nations summits, conferences and special sessions and in their follow-up processes, including the fifteenth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, held in Copenhagen from 7 to 18 December 2009, and to give attention to gender equality and the empowerment of women in preparations for such events, and in this regard looks forward to efficient and effective support for these efforts by the consolidated gender entity upon its establishment;

[15] See Economic and Social Council resolution 2009/15.

15. *Requests* that the entities of the United Nations system systematically incorporate the outcomes of the Commission on the Status of Women into their work within their mandates, inter alia, to ensure effective support for the efforts of Member States towards the achievement of gender equality and the empowerment of women;

16. *Strongly encourages* Governments to continue to support the role and contribution of civil society, in particular non-governmental organizations and women's organizations, in the implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session;

17. *Requests* that reports of the Secretary-General submitted to the General Assembly and the Economic and Social Council and their subsidiary bodies systematically address gender perspectives through qualitative gender analysis, sex- and age-disaggregated data and, where available, quantitative data, in particular through concrete conclusions and recommendations for further action on gender equality and the empowerment of women, in order to facilitate gender-sensitive policy development;

18. *Calls upon* all parts of the United Nations system to continue to play an active role in ensuring the full, effective and accelerated implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session, through, inter alia, the maintenance of gender specialists in all entities of the United Nations system, as well as by ensuring that all personnel, especially in the field, receive training and appropriate follow-up, including tools, guidance and support, for accelerated gender mainstreaming, and reaffirms the need to strengthen the capabilities of the United Nations system in the area of gender;

19. *Requests* the Secretary-General to review and redouble his efforts to make progress towards achieving the goal of 50/50 gender balance at all levels in the Secretariat and throughout the United Nations system, with full respect for the principle of equitable geographical distribution, in conformity with Article 101, paragraph 3, of the Charter of the United Nations, considering, in particular, women from developing and least developed countries, from countries with economies in transition and from unrepresented or largely underrepresented Member States, and to ensure managerial and departmental accountability with respect to gender balance targets, and strongly encourages Member States to identify and regularly submit more women candidates for appointment to positions in the United Nations system, especially at more senior and policymaking levels, including in peacekeeping operations;

20. *Calls upon* the United Nations system to continue its efforts towards achieving the goal of gender balance, including with the active support of gender focal points, and requests the Secretary-General to provide an oral report to the Commission on the Status of Women at its fifty-fourth session, to report to the General Assembly on a biennial basis, beginning at its sixty-fifth session, under the item entitled "Advancement of women", and to include in his report on human resources management information on the status of women in the United Nations system, including on progress made and obstacles encountered in achieving gender balance, recommendations for accelerating progress, and up-to-date statistics, including the number and percentage of women and their functions and nationalities throughout the United Nations system, and information on the responsibility and accountability of the Office of Human Resources Management of the Secretariat and the secretariat of the United Nations System Chief Executives Board for Coordination for promoting gender balance;

21. *Encourages* increased efforts by Governments and the United Nations system to enhance accountability for the implementation of commitments to gender equality and the empowerment of women at the international, regional and national levels, including by improved monitoring and reporting on progress in relation to policies, strategies, resource allocations and programmes, and by achieving gender balance;

22. *Reaffirms* that Governments bear the primary responsibility for the achievement of gender equality and the empowerment of women and that international cooperation has an essential role in assisting developing countries in progressing towards the full implementation of the Beijing Declaration and Platform for Action;

23. *Requests* the Secretary-General to continue to report annually to the General Assembly under the item entitled "Advancement of women", as well as to the Commission on the Status of Women and the Economic and Social Council, on the follow-up to and progress made in the implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session, with an assessment of progress in gender mainstreaming, including information on key achievements, lessons learned and good practices, and recommendations on further measures to enhance implementation, taking into account the discussions and outcome of the fifty-fourth session of the Commission in respect of the fifteen-year review of the Beijing Declaration and Platform for Action and the review of the outcome of the twenty-third special session.

65th plenary meeting
18 December 2009

General Assembly

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Sixty-fourth session
Agenda item 64

Resolution adopted by the General Assembly

[on the report of the Third Committee (A/64/434)]

64/142. Guidelines for the Alternative Care of Children

The General Assembly,

Reaffirming the Universal Declaration of Human Rights[1] and the Convention on the Rights of the Child,[2] and celebrating the twentieth anniversary of the Convention in 2009,

Reaffirming also all previous resolutions on the rights of the child of the Human Rights Council, the Commission on Human Rights and the General Assembly, the most recent being Council resolutions 7/29 of 28 March 2008,[3] 9/13 of 24 September 2008[4] and 10/8 of 26 March 2009[5] and Assembly resolution 63/241 of 24 December 2008,

Considering that the Guidelines for the Alternative Care of Children, the text of which is annexed to the present resolution, set out desirable orientations for policy and practice with the intention of enhancing the implementation of the Convention on the Rights of the Child and of relevant provisions of other international instruments regarding the protection and well-being of children deprived of parental care or who are at risk of being so,

1. *Welcomes* the Guidelines for the Alternative Care of Children, as contained in the annex to the present resolution, as a set of orientations to help to inform policy and practice;

2. *Encourages* States to take the Guidelines into account and to bring them to the attention of the relevant executive, legislative and judiciary bodies of government, human rights defenders and lawyers, the media and the public in general;

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[1] Resolution 217 A (III).

[2] United Nations, *Treaty Series*, vol. 1577, No. 27531.

[3] See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53* (A/63/53), chap. II.

[4] Ibid., *Supplement No. 53A* (A/63/53/Add.1), chap. I.

[5] Ibid., *Sixty-fourth Session, Supplement No. 53* (A/64/53), chap. II, sect. A.

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3. *Requests* the Secretary-General, within existing resources, to take steps to disseminate the Guidelines in all the official languages of the United Nations, including by transmitting them to all Member States, regional commissions and relevant intergovernmental and non-governmental organizations.

65th plenary meeting
18 December 2009

Annex

Guidelines for the Alternative Care of Children

I. Purpose

1. The present Guidelines are intended to enhance the implementation of the Convention on the Rights of the Child[2] and of relevant provisions of other international instruments regarding the protection and well-being of children who are deprived of parental care or who are at risk of being so.

2. Against the background of these international instruments and taking account of the developing body of knowledge and experience in this sphere, the Guidelines set out desirable orientations for policy and practice. They are designed for wide dissemination among all sectors directly or indirectly concerned with issues relating to alternative care, and seek in particular:

(*a*) To support efforts to keep children in, or return them to, the care of their family or, failing this, to find another appropriate and permanent solution, including adoption and *kafala* of Islamic law;

(*b*) To ensure that, while such permanent solutions are being sought, or in cases where they are not possible or are not in the best interests of the child, the most suitable forms of alternative care are identified and provided, under conditions that promote the child's full and harmonious development;

(*c*) To assist and encourage Governments to better implement their responsibilities and obligations in these respects, bearing in mind the economic, social and cultural conditions prevailing in each State; and

(*d*) To guide policies, decisions and activities of all concerned with social protection and child welfare in both the public and the private sectors, including civil society.

II. General principles and perspectives

A. The child and the family

3. The family being the fundamental group of society and the natural environment for the growth, well-being and protection of children, efforts should primarily be directed to enabling the child to remain in or return to the care of his/her parents, or when appropriate, other close family members. The State should ensure that families have access to forms of support in the caregiving role.

4. Every child and young person should live in a supportive, protective and caring environment that promotes his/her full potential. Children with inadequate or no parental care are at special risk of being denied such a nurturing environment.

5. Where the child's own family is unable, even with appropriate support, to provide adequate care for the child, or abandons or relinquishes the child, the State

is responsible for protecting the rights of the child and ensuring appropriate alternative care, with or through competent local authorities and duly authorized civil society organizations. It is the role of the State, through its competent authorities, to ensure the supervision of the safety, well-being and development of any child placed in alternative care and the regular review of the appropriateness of the care arrangement provided.

6. All decisions, initiatives and approaches falling within the scope of the present Guidelines should be made on a case-by-case basis, with a view, notably, to ensuring the child's safety and security, and must be grounded in the best interests and rights of the child concerned, in conformity with the principle of non-discrimination and taking due account of the gender perspective. They should respect fully the child's right to be consulted and to have his/her views duly taken into account in accordance with his/her evolving capacities, and on the basis of his/her access to all necessary information. Every effort should be made to enable such consultation and information provision to be carried out in the child's preferred language.

6. bis In applying the present Guidelines, determination of the best interests of the child shall be designed to identify courses of action for children deprived of parental care, or at risk of being so, that are best suited to satisfying their needs and rights, taking into account the full and personal development of their rights in their family, social and cultural environment and their status as subjects of rights, both at the time of the determination and in the longer term. The determination process should take account of, inter alia, the right of the child to be heard and to have his/her views taken into account in accordance with his/her age and maturity.

7. States should develop and implement comprehensive child welfare and protection policies within the framework of their overall social and human development policy, with attention to the improvement of existing alternative care provision, reflecting the principles contained in the present Guidelines.

8. As part of efforts to prevent the separation of children from their parents, States should seek to ensure appropriate and culturally sensitive measures:

(*a*) To support family caregiving environments whose capacities are limited by factors such as disability, drug and alcohol misuse, discrimination against families with indigenous or minority backgrounds, and living in armed conflict regions or under foreign occupation;

(*b*) To provide appropriate care and protection for vulnerable children, such as child victims of abuse and exploitation, abandoned children, children living on the street, children born out of wedlock, unaccompanied and separated children, internally displaced and refugee children, children of migrant workers, children of asylum-seekers, or children living with or affected by HIV/AIDS and other serious illnesses.

9. Special efforts should be made to tackle discrimination on the basis of any status of the child or parents, including poverty, ethnicity, religion, sex, mental and physical disability, HIV/AIDS or other serious illnesses, whether physical or mental, birth out of wedlock, and socio-economic stigma, and all other statuses and circumstances that can give rise to relinquishment, abandonment and/or removal of a child.

B. Alternative care

10. All decisions concerning alternative care should take full account of the desirability, in principle, of maintaining the child as close as possible to his/her habitual place of residence, in order to facilitate contact and potential reintegration with his/her family and to minimize disruption of his/her educational, cultural and social life.

11. Decisions regarding children in alternative care, including those in informal care, should have due regard for the importance of ensuring children a stable home and of meeting their basic need for safe and continuous attachment to their caregivers, with permanency generally being a key goal.

12. Children must be treated with dignity and respect at all times and must benefit from effective protection from abuse, neglect and all forms of exploitation, whether on the part of care providers, peers or third parties, in whatever care setting they may find themselves.

13. Removal of a child from the care of the family should be seen as a measure of last resort and should, whenever possible, be temporary and for the shortest possible duration. Removal decisions should be regularly reviewed and the child's return to parental care, once the original causes of removal have been resolved or have disappeared, should be in the best interests of the child, in keeping with the assessment foreseen in paragraph 48 below.

14. Financial and material poverty, or conditions directly and uniquely imputable to such poverty, should never be the only justification for the removal of a child from parental care, for receiving a child into alternative care, or for preventing his/her reintegration, but should be seen as a signal for the need to provide appropriate support to the family.

15. Attention must be paid to promoting and safeguarding all other rights of special pertinence to the situation of children without parental care, including, but not limited to, access to education, health and other basic services, the right to identity, freedom of religion or belief, language and protection of property and inheritance rights.

16. Siblings with existing bonds should in principle not be separated by placements in alternative care unless there is a clear risk of abuse or other justification in the best interests of the child. In any case, every effort should be made to enable siblings to maintain contact with each other, unless this is against their wishes or interests.

17. Recognizing that, in most countries, the majority of children without parental care are looked after informally by relatives or others, States should seek to devise appropriate means, consistent with the present Guidelines, to ensure their welfare and protection while in such informal care arrangements, with due respect for cultural, economic, gender and religious differences and practices that do not conflict with the rights and best interests of the child.

18. No child should be without the support and protection of a legal guardian or other recognized responsible adult or competent public body at any time.

19. The provision of alternative care should never be undertaken with a prime purpose of furthering the political, religious or economic goals of the providers.

20. The use of residential care should be limited to cases where such a setting is specifically appropriate, necessary and constructive for the individual child concerned and in his/her best interests.

21. In accordance with the predominant opinion of experts, alternative care for young children, especially those under the age of 3 years, should be provided in family-based settings. Exceptions to this principle may be warranted in order to prevent the separation of siblings and in cases where the placement is of an emergency nature or is for a predetermined and very limited duration, with planned family reintegration or other appropriate long-term care solution as its outcome.

22. While recognizing that residential care facilities and family-based care complement each other in meeting the needs of children, where large residential care facilities (institutions) remain, alternatives should be developed in the context of an overall deinstitutionalization strategy, with precise goals and objectives, which will allow for their progressive elimination. To this end, States should establish care standards to ensure the quality and conditions that are conducive to the child's development, such as individualized and small-group care, and should evaluate existing facilities against these standards. Decisions regarding the establishment of, or permission to establish, new residential care facilities, whether public or private, should take full account of this deinstitutionalization objective and strategy.

Measures to promote application

23. States should, to the maximum extent of their available resources and, where appropriate, within the framework of development cooperation, allocate human and financial resources to ensure the optimal and progressive implementation of the present Guidelines throughout their respective territories in a timely manner. States should facilitate active cooperation among all relevant authorities and the mainstreaming of child and family welfare issues within all ministries directly or indirectly concerned.

24. States are responsible for determining any need for, and requesting, international cooperation in implementing the present Guidelines. Such requests should be given due consideration and should receive a favourable response wherever possible and appropriate. The enhanced implementation of the present Guidelines should figure in development cooperation programmes. When providing assistance to a State, foreign entities should abstain from any initiative inconsistent with the Guidelines.

25. Nothing in the present Guidelines should be interpreted as encouraging or condoning lower standards than those that may exist in given States, including in their legislation. Similarly, competent authorities, professional organizations and others are encouraged to develop national or professionally specific guidelines that build upon the letter and spirit of the present Guidelines.

III. Scope of the Guidelines

26. The present Guidelines apply to the appropriate use and conditions of alternative formal care for all persons under the age of 18 years, unless, under the law applicable to the child, majority is attained earlier. Only where indicated do the Guidelines also apply to informal care settings, having due regard for both the important role played by the extended family and the community and the obligations of States for all children not in the care of their parents or legal and customary caregivers, as set out in the Convention on the Rights of the Child.[2]

27. Principles in the present Guidelines are also applicable, as appropriate, to young persons already in alternative care and who need continuing care or support for a transitional period after reaching the age of majority under applicable law.

28. For the purposes of the present Guidelines, and subject, notably, to the exceptions listed in paragraph 29 below, the following definitions shall apply:

(*a*) Children without parental care: all children not in the overnight care of at least one of their parents, for whatever reason and under whatever circumstances. Children without parental care who are outside their country of habitual residence or victims of emergency situations may be designated as:

(i) "Unaccompanied" if they are not cared for by another relative or an adult who by law or custom is responsible for doing so; or

(ii) "Separated" if they are separated from a previous legal or customary primary caregiver, but who may nevertheless be accompanied by another relative;

(*b*) Alternative care may take the form of:

(i) Informal care: any private arrangement provided in a family environment, whereby the child is looked after on an ongoing or indefinite basis by relatives or friends (informal kinship care) or by others in their individual capacity, at the initiative of the child, his/her parents or other person without this arrangement having been ordered by an administrative or judicial authority or a duly accredited body;

(ii) Formal care: all care provided in a family environment which has been ordered by a competent administrative body or judicial authority, and all care provided in a residential environment, including in private facilities, whether or not as a result of administrative or judicial measures;

(*c*) With respect to the environment where it is provided, alternative care may be:

(i) Kinship care: family-based care within the child's extended family or with close friends of the family known to the child, whether formal or informal in nature;

(ii) Foster care: situations where children are placed by a competent authority for the purpose of alternative care in the domestic environment of a family other than the children's own family that has been selected, qualified, approved and supervised for providing such care;

(iii) Other forms of family-based or family-like care placements;

(iv) Residential care: care provided in any non-family-based group setting, such as places of safety for emergency care, transit centres in emergency situations, and all other short- and long-term residential care facilities, including group homes;

(v) Supervised independent living arrangements for children;

(*d*) With respect to those responsible for alternative care:

(i) Agencies are the public or private bodies and services that organize alternative care for children;

(ii) Facilities are the individual public or private establishments that provide residential care for children.

29. The scope of alternative care as foreseen in the present Guidelines does not extend, however, to:

(*a*) Persons under the age of 18 years who are deprived of their liberty by decision of a judicial or administrative authority as a result of being alleged as, accused of or recognized as having infringed the law, and whose situation is covered by the United Nations Standard Minimum Rules for the Administration of Juvenile Justice[6] and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty;[7]

(*b*) Care by adoptive parents from the moment the child concerned is effectively placed in their custody pursuant to a final adoption order, as of which moment, for the purposes of the present Guidelines, the child is considered to be in parental care. The Guidelines are, however, applicable to pre-adoption or probationary placement of a child with the prospective adoptive parents, as far as they are compatible with requirements governing such placements as stipulated in other relevant international instruments;

(*c*) Informal arrangements whereby a child voluntarily stays with relatives or friends for recreational purposes and reasons not connected with the parents' general inability or unwillingness to provide adequate care.

30. Competent authorities and others concerned are also encouraged to make use of the present Guidelines, as applicable, at boarding schools, hospitals, centres for children with mental and physical disabilities or other special needs, camps, the workplace and other places which may be responsible for the care of children.

IV. Preventing the need for alternative care

A. Promoting parental care

31. States should pursue policies that ensure support for families in meeting their responsibilities towards the child and promote the right of the child to have a relationship with both parents. These policies should address the root causes of child abandonment, relinquishment and separation of the child from his/her family by ensuring, inter alia, the right to birth registration, and access to adequate housing and to basic health, education and social welfare services, as well as by promoting measures to combat poverty, discrimination, marginalization, stigmatization, violence, child maltreatment and sexual abuse, and substance abuse.

32. States should develop and implement consistent and mutually reinforcing family-oriented policies designed to promote and strengthen parents' ability to care for their children.

33. States should implement effective measures to prevent child abandonment, relinquishment and separation of the child from his/her family. Social policies and programmes should, inter alia, empower families with attitudes, skills, capacities and tools to enable them to provide adequately for the protection, care and development of their children. The complementary capacities of the State and civil society, including non-governmental and community-based organizations, religious

[6] Resolution 40/33, annex.

[7] Resolution 45/113, annex.

leaders and the media should be engaged to this end. These social protection measures should include:

(*a*) Family strengthening services, such as parenting courses and sessions, the promotion of positive parent-child relationships, conflict resolution skills, opportunities for employment and income generation and, where required, social assistance;

(*b*) Supportive social services, such as day care, mediation and conciliation services, substance abuse treatment, financial assistance, and services for parents and children with disabilities. Such services, preferably of an integrated and non-intrusive nature, should be directly accessible at the community level and should actively involve the participation of families as partners, combining their resources with those of the community and the carer;

(*c*) Youth policies aiming at empowering youth to face positively the challenges of everyday life, including when they decide to leave the parental home, and preparing future parents to make informed decisions regarding their sexual and reproductive health and to fulfil their responsibilities in this respect.

34. Various complementary methods and techniques should be used for family support, varying throughout the process of support, such as home visits, group meetings with other families, case conferences and securing commitments by the family concerned. They should be directed towards both facilitating intrafamilial relationships and promoting the family's integration within its community.

35. Special attention should be paid, in accordance with local laws, to the provision and promotion of support and care services for single and adolescent parents and their children, whether or not born out of wedlock. States should ensure that adolescent parents retain all rights inherent to their status both as parents and as children, including access to all appropriate services for their own development, allowances to which parents are entitled, and their inheritance rights. Measures should be adopted to ensure the protection of pregnant adolescents and to guarantee that they do not interrupt their studies. Efforts should also be made to reduce the stigma attached to single and adolescent parenthood.

36. Support and services should be available to siblings who have lost their parents or caregivers and choose to remain together in their household, to the extent that the eldest sibling is both willing and deemed capable of acting as the household head. States should ensure, including through the appointment of a legal guardian, a recognized responsible adult or, where appropriate, a public body legally mandated to act as guardian, as stipulated in paragraph 18 above, that such households benefit from mandatory protection from all forms of exploitation and abuse, and supervision and support on the part of the local community and its competent services, such as social workers, with particular concern for the children's health, housing, education and inheritance rights. Special attention should be given to ensuring that the head of such a household retains all rights inherent to his/her child status, including access to education and leisure, in addition to his/her rights as a household head.

37. States should ensure opportunities for day care, including all-day schooling, and respite care which would enable parents better to cope with their overall responsibilities towards the family, including additional responsibilities inherent in caring for children with special needs.

Preventing family separation

38. Proper criteria based on sound professional principles should be developed and consistently applied for assessing the child's and the family's situation, including the family's actual and potential capacity to care for the child, in cases where the competent authority or agency has reasonable grounds to believe that the well-being of the child is at risk.

39. Decisions regarding removal or reintegration should be based on this assessment and should be made by suitably qualified and trained professionals, on behalf of or authorized by a competent authority, in full consultation with all concerned and bearing in mind the need to plan for the child's future.

40. States are encouraged to adopt measures for the integral protection and guarantee of rights during pregnancy, birth and the breastfeeding period, in order to ensure conditions of dignity and equality for the adequate development of the pregnancy and the care of the child. Therefore, support programmes should be provided to future mothers and fathers, particularly adolescent parents, who have difficulty exercising their parental responsibilities. Such programmes should aim at empowering mothers and fathers to exercise their parental responsibilities in conditions of dignity and at avoiding their being induced to surrender their child because of their vulnerability.

41. When a child is relinquished or abandoned, States should ensure that this may take place in conditions of confidentiality and safety for the child, respecting his/her right to access information on his/her origins where appropriate and possible under the law of the State.

42. States should formulate clear policies to address situations where a child has been abandoned anonymously, which indicate whether and how family tracing should be undertaken and reunification or placement within the extended family pursued. Policies should also allow for timely decision-making on the child's eligibility for permanent family placement and for arranging such placements expeditiously.

43. When a public or private agency or facility is approached by a parent or legal guardian wishing to relinquish a child permanently, the State should ensure that the family receives counselling and social support to encourage and enable them to continue to care for the child. If this fails, a social worker or other appropriate professional assessment should be undertaken to determine whether there are other family members who wish to take permanent responsibility for the child, and whether such arrangements would be in the best interests of the child. Where such arrangements are not possible or are not in the best interests of the child, efforts should be made to find a permanent family placement within a reasonable period.

44. When a public or private agency or facility is approached by a parent or caregiver wishing to place a child in care for a short or indefinite period, the State should ensure the availability of counselling and social support to encourage and enable him or her to continue to care for the child. A child should be admitted to alternative care only when such efforts have been exhausted and acceptable and justified reasons for entry into care exist.

45. Specific training should be provided to teachers and others working with children in order to help them to identify situations of abuse, neglect, exploitation or risk of abandonment and to refer such situations to competent bodies.

46. Any decision to remove a child against the will of his/her parents must be made by competent authorities, in accordance with applicable law and procedures and subject to judicial review, the parents being assured the right of appeal and access to appropriate legal representation.

47. When the child's sole or main carer may be the subject of deprivation of liberty as a result of preventive detention or sentencing decisions, non-custodial remand measures and sentences should be taken in appropriate cases wherever possible, the best interests of the child being given due consideration. States should take into account the best interests of the child when deciding whether to remove children born in prison and children living in prison with a parent. The removal of such children should be treated in the same way as other instances where separation is considered. Best efforts should be made to ensure that children remaining in custody with their parent benefit from adequate care and protection, while guaranteeing their own status as free individuals and access to activities in the community.

B. Promoting family reintegration

48. In order to prepare and support the child and the family for his/her possible return to the family, his/her situation should be assessed by a duly designated individual or team with access to multidisciplinary advice, in consultation with the different actors involved (the child, the family, the alternative caregiver), so as to decide whether the reintegration of the child in the family is possible and in the best interests of the child, which steps this would involve and under whose supervision.

49. The aims of the reintegration and the family's and alternative caregiver's principal tasks in this respect should be set out in writing and agreed on by all concerned.

50. Regular and appropriate contact between the child and his/her family specifically for the purpose of reintegration should be developed, supported and monitored by the competent body.

51. Once decided, the reintegration of the child in his/her family should be designed as a gradual and supervised process, accompanied by follow-up and support measures that take account of the child's age, needs and evolving capacities, as well as the cause of the separation.

V. Framework of care provision

52. In order to meet the specific psychoemotional, social and other needs of each child without parental care, States should take all necessary measures to ensure that the legislative, policy and financial conditions exist to provide for adequate alternative care options, with priority to family- and community-based solutions.

53. States should ensure the availability of a range of alternative care options, consistent with the general principles of the present Guidelines, for emergency, short-term and long-term care.

54. States should ensure that all entities and individuals engaged in the provision of alternative care for children receive due authorization to do so from a competent authority and are subject to regular monitoring and review by the latter in keeping with the present Guidelines. To this end, these authorities should develop appropriate criteria for assessing the professional and ethical fitness of care providers and for their accreditation, monitoring and supervision.

55. With regard to informal care arrangements for the child, whether within the extended family, with friends or with other parties, States should, where appropriate, encourage such carers to notify the competent authorities accordingly so that they and the child may receive any necessary financial and other support that would promote the child's welfare and protection. Where possible and appropriate, States should encourage and enable informal caregivers, with the consent of the child and parents concerned, to formalize the care arrangement after a suitable lapse of time, to the extent that the arrangement has proved to be in the best interests of the child to date and is expected to continue in the foreseeable future.

VI. Determination of the most appropriate form of care

56. Decision-making on alternative care in the best interests of the child should take place through a judicial, administrative or other adequate and recognized procedure, with legal safeguards, including, where appropriate, legal representation on behalf of children in any legal proceedings. It should be based on rigorous assessment, planning and review, through established structures and mechanisms, and should be carried out on a case-by-case basis, by suitably qualified professionals in a multidisciplinary team, wherever possible. It should involve full consultation at all stages with the child, according to his/her evolving capacities, and with his/her parents or legal guardians. To this end, all concerned should be provided with the necessary information on which to base their opinion. States should make every effort to provide adequate resources and channels for the training and recognition of the professionals responsible for determining the best form of care so as to facilitate compliance with these provisions.

57. Assessment should be carried out expeditiously, thoroughly and carefully. It should take into account the child's immediate safety and well-being, as well as his/her longer-term care and development, and should cover the child's personal and developmental characteristics, ethnic, cultural, linguistic and religious background, family and social environment, medical history and any special needs.

58. The resulting initial and review reports should be used as essential tools for planning decisions from the time of their acceptance by the competent authorities onwards, with a view to, inter alia, avoiding undue disruption and contradictory decisions.

59. Frequent changes in care setting are detrimental to the child's development and ability to form attachments, and should be avoided. Short-term placements should aim at enabling an appropriate permanent solution to be arranged. Permanency for the child should be secured without undue delay through reintegration in his/her nuclear or extended family or, if this is not possible, in an alternative stable family setting or, where paragraph 20 above applies, in stable and appropriate residential care.

60. Planning for care provision and permanency should be carried out from the earliest possible time, ideally before the child enters care, taking into account the immediate and longer-term advantages and disadvantages of each option considered, and should comprise short- and long-term propositions.

61. Planning for care provision and permanency should be based on, notably, the nature and quality of the child's attachment to his/her family, the family's capacity to safeguard the child's well-being and harmonious development, the child's need or desire to feel part of a family, the desirability of the child remaining within his/her community and country, the child's cultural, linguistic and religious background, and the child's relationships with siblings, with a view to avoiding their separation.

62. The plan should clearly state, inter alia, the goals of the placement and the measures to achieve them.

63. The child and his/her parents or legal guardians should be fully informed about the alternative care options available, the implications of each option and their rights and obligations in the matter.

64. The preparation, enforcement and evaluation of a protective measure for a child should be carried out, to the greatest extent possible, with the participation of his/her parents or legal guardians and potential foster carers and caregivers, with respect to his/her particular needs, convictions and special wishes. At the request of the child, parents or legal guardians, other important persons in the child's life may also be consulted in any decision-making process, at the discretion of the competent authority.

65. States should ensure that any child who has been placed in alternative care by a properly constituted court, tribunal or administrative or other competent body, as well as his/her parents or others with parental responsibility, are given the opportunity to make representations on the placement decision before a court, are informed of their rights to make such representations and are assisted in doing so.

66. States should ensure the right of any child who has been placed in temporary care to regular and thorough review – preferably at least every three months – of the appropriateness of his/her care and treatment, taking into account, notably, his/her personal development and any changing needs, developments in his/her family environment, and the adequacy and necessity of the current placement in these circumstances. The review should be carried out by duly qualified and authorized persons, and should fully involve the child and all relevant persons in the child's life.

67. The child should be prepared for all changes of care settings resulting from the planning and review processes.

VII. Provision of alternative care

A. Policies

68. It is a responsibility of the State or appropriate level of government to ensure the development and implementation of coordinated policies regarding formal and informal care for all children who are without parental care. Such policies should be based on sound information and statistical data. They should define a process for determining who has responsibility for a child, taking into account the role of the child's parents or principal caregivers in his/her protection, care and development. Presumptive responsibility, unless shown to be otherwise, is with the child's parents or principal caregivers.

69. All State entities involved in the referral of, and assistance to, children without parental care, in cooperation with civil society, should adopt policies and procedures which favour information-sharing and networking between agencies and individuals in order to ensure effective care, aftercare and protection for these children. The location and/or design of the agency responsible for the oversight of alternative care should be established so as to maximize its accessibility to those who require the services provided.

70. Special attention should be paid to the quality of alternative care provision, both in residential and in family-based care, in particular with regard to the professional skills, selection, training and supervision of carers. Their role and functions should be clearly defined and clarified with respect to those of the child's parents or legal guardians.

71. In each country, the competent authorities should draw up a document setting out the rights of children in alternative care in keeping with the present Guidelines. Children in alternative care should be enabled to understand fully the rules, regulations and objectives of the care setting and their rights and obligations therein.

72. All alternative care provision should be based on a written statement of the provider's aims and objectives in providing the service and the nature of the provider's responsibilities to the child that reflects the standards set by the Convention on the Rights of the Child,[2] the present Guidelines and applicable law. All providers should be appropriately qualified or approved in accordance with legal requirements to provide alternative care services.

73. A regulatory framework should be established to ensure a standard process for the referral or admission of a child to an alternative care setting.

74. Cultural and religious practices regarding the provision of alternative care, including those related to gender perspectives, should be respected and promoted to the extent that they can be shown to be consistent with the rights and best interests of the children. The process of considering whether such practices should be promoted should be carried out in a broadly participatory way, involving the cultural and religious leaders concerned, professionals and those caring for children without parental care, parents and other relevant stakeholders, as well as the children themselves.

1. Informal care

75. With a view to ensuring that appropriate conditions of care are met in informal care provided by individuals or families, States should recognize the role played by this type of care and take adequate measures to support its optimal provision on the basis of an assessment of which particular settings may require special assistance or oversight.

76. Competent authorities should, where appropriate, encourage informal carers to notify the care arrangement and should seek to ensure their access to all available services and benefits likely to assist them in discharging their duty to care for and protect the child.

77. The State should recognize the de facto responsibility of informal carers for the child.

78. States should devise special and appropriate measures designed to protect children in informal care from abuse, neglect, child labour and all other forms of exploitation, with particular attention to informal care provided by non-relatives, or by relatives previously unknown to the children or living far from the children's habitual place of residence.

2. General conditions applying to all forms of formal alternative care arrangements

79. The transfer of a child into alternative care should be carried out with the utmost sensitivity and in a child-friendly manner, in particular involving specially trained and, in principle, non-uniformed personnel.

80. When a child is placed in alternative care, contact with his/her family, as well as with other persons close to him or her, such as friends, neighbours and previous carers, should be encouraged and facilitated, in keeping with the child's protection and best interests. The child should have access to information on the situation of his/her family members in the absence of contact with them.

81. States should pay special attention to ensuring that children in alternative care because of parental imprisonment or prolonged hospitalization have the opportunity to maintain contact with their parents and receive any necessary counselling and support in that regard.

82. Carers should ensure that children receive adequate amounts of wholesome and nutritious food in accordance with local dietary habits and relevant dietary standards, as well as with the children's religious beliefs. Appropriate nutritional supplementation should also be provided when necessary.

83. Carers should promote the health of the children for whom they are responsible and make arrangements to ensure that medical care, counselling and support are made available as required.

84. Children should have access to formal, non-formal and vocational education in accordance with their rights, to the maximum extent possible in educational facilities in the local community.

85. Carers should ensure that the right of every child, including children with disabilities, living with or affected by HIV/AIDS or having any other special needs, to develop through play and leisure activities is respected and that opportunities for such activities are created within and outside the care setting. Contact with the children and others in the local community should be encouraged and facilitated.

86. The specific safety, health, nutritional, developmental and other needs of babies and young children, including those with special needs, should be catered for in all care settings, including ensuring their ongoing attachment to a specific carer.

87. Children should be allowed to satisfy the needs of their religious and spiritual life, including by receiving visits from a qualified representative of their religion, and to freely decide whether or not to participate in religious services, religious education or counselling. The child's own religious background should be respected, and no child should be encouraged or persuaded to change his/her religion or belief during a care placement.

88. All adults responsible for children should respect and promote the right to privacy, including appropriate facilities for hygiene and sanitary needs, respecting gender differences and interaction, and adequate, secure and accessible storage space for personal possessions.

89. Carers should understand the importance of their role in developing positive, safe and nurturing relationships with children, and should be able to do so.

90. Accommodation in all alternative care settings should meet the requirements of health and safety.

91. States must ensure through their competent authorities that accommodation provided to children in alternative care, and their supervision in such placements, enable them to be effectively protected against abuse. Particular attention needs to be paid to the age, maturity and degree of vulnerability of each child in determining his/her living arrangements. Measures aimed at protecting children in care should be in conformity with the law and should not involve unreasonable constraints on their liberty and conduct in comparison with children of similar age in their community.

92. All alternative care settings should provide adequate protection to children from abduction, trafficking, sale and all other forms of exploitation. Any consequent constraints on their liberty and conduct should be no more than are strictly necessary to ensure their effective protection from such acts.

93. All carers should promote and encourage children and young people to develop and exercise informed choices, taking account of acceptable risks and the child's age, and according to his/her evolving capacities.

94. States, agencies and facilities, schools and other community services should take appropriate measures to ensure that children in alternative care are not stigmatized during or after their placement. This should include efforts to minimize the identification of children as being looked after in an alternative care setting.

95. All disciplinary measures and behaviour management constituting torture, cruel, inhuman or degrading treatment, including closed or solitary confinement or any other forms of physical or psychological violence that are likely to compromise the physical or mental health of the child, must be strictly prohibited in conformity with international human rights law. States must take all necessary measures to prevent such practices and ensure that they are punishable by law. Restriction of contact with members of the child's family and other persons of special importance to the child should never be used as a sanction.

96. Use of force and restraints of whatever nature should not be authorized unless strictly necessary for safeguarding the child's or others' physical or psychological integrity, in conformity with the law and in a reasonable and proportionate manner and with respect for the fundamental rights of the child. Restraint by means of drugs and medication should be based on therapeutic needs and should never be employed without evaluation and prescription by a specialist.

97. Children in care should be offered access to a person of trust in whom they may confide in total confidentiality. This person should be designated by the competent authority with the agreement of the child concerned. The child should be informed that legal or ethical standards may require breaching confidentiality under certain circumstances.

98. Children in care should have access to a known, effective and impartial mechanism whereby they can notify complaints or concerns regarding their treatment or conditions of placement. Such mechanisms should include initial consultation, feedback, implementation and further consultation. Young people with previous care experience should be involved in this process, due weight being given to their opinions. This process should be conducted by competent persons trained to work with children and young people.

99. To promote the child's sense of self-identity, a life story book comprising appropriate information, pictures, personal objects and mementoes regarding each step of the child's life should be maintained with the child's participation and made available to the child throughout his/her life.

B. Legal responsibility for the child

100. In situations where the child's parents are absent or are incapable of making day-to-day decisions in the best interests of the child, and the child's placement in alternative care has been ordered or authorized by a competent administrative body or judicial authority, a designated individual or competent entity should be vested with the legal right and responsibility to make such decisions in the place of parents, in full consultation with the child. States should ensure that a mechanism is in place for designating such an individual or entity.

101. Such legal responsibility should be attributed by the competent authorities and be supervised directly by them or through formally accredited entities, including non-governmental organizations. Accountability for the actions of the individual or entity concerned should lie with the designating body.

102. Persons exercising such legal responsibility should be reputable individuals with relevant knowledge of children's issues, an ability to work directly with children and an understanding of any special and cultural needs of the children to be entrusted to them. They should receive appropriate training and professional support in this regard. They should be in a position to make independent and impartial decisions that are in the best interests of the children concerned and that promote and safeguard each child's welfare.

103. The role and specific responsibilities of the designated person or entity should include:

(*a*) Ensuring that the rights of the child are protected and, in particular, that the child has appropriate care, accommodation, health-care provision, developmental opportunities, psychosocial support, education and language support;

(*b*) Ensuring that the child has access to legal and other representation where necessary, consulting with the child so that the child's views are taken into account by decision-making authorities, and advising and keeping the child informed of his/her rights;

(*c*) Contributing to the identification of a stable solution in the best interests of the child;

(*d*) Providing a link between the child and various organizations that may provide services to the child;

(*e*) Assisting the child in family tracing;

(*f*) Ensuring that, if repatriation or family reunification is carried out, it is done in the best interests of the child;

(*g*) Helping the child to keep in touch with his/her family, when appropriate.

1. Agencies and facilities responsible for formal care

104. Legislation should stipulate that all agencies and facilities must be registered and authorized to operate by social welfare services or another competent authority, and that failure to comply with such legislation constitutes an offence punishable by law. Authorization should be granted and be regularly reviewed by the competent authorities on the basis of standard criteria covering, at a minimum, the agency's or facility's objectives, functioning, staff recruitment and qualifications, conditions of care and financial resources and management.

105. All agencies and facilities should have written policy and practice statements, consistent with the present Guidelines, setting out clearly their aims, policies, methods and the standards applied for the recruitment, monitoring, supervision and evaluation of qualified and suitable carers to ensure that those aims are met.

106. All agencies and facilities should develop a staff code of conduct, consistent with the present Guidelines, that defines the role of each professional and of the carers in particular and includes clear reporting procedures on allegations of misconduct by any team member.

107. The forms of financing care provision should never be such as to encourage a child's unnecessary placement or prolonged stay in care arrangements organized or provided by an agency or facility.

108. Comprehensive and up-to-date records should be maintained regarding the administration of alternative care services, including detailed files on all children in their care, staff employed and financial transactions.

109. The records on children in care should be complete, up to date, confidential and secure, and should include information on their admission and departure and the form, content and details of the care placement of each child, together with any appropriate identity documents and other personal information. Information on the child's family should be included in the child's file as well as in the reports based on regular evaluations. This record should follow the child throughout the alternative care period and be consulted by duly authorized professionals responsible for his/her current care.

110. The above-mentioned records could be made available to the child, as well as to the parents or guardians, within the limits of the child's right to privacy and confidentiality, as appropriate. Appropriate counselling should be provided before, during and after consultation of the record.

111. All alternative care services should have a clear policy on maintaining the confidentiality of information pertaining to each child, which all carers are aware of and adhere to.

112. As a matter of good practice, all agencies and facilities should systematically ensure that, prior to employment, carers and other staff in direct contact with children undergo an appropriate and comprehensive assessment of their suitability to work with children.

113. Conditions of work, including remuneration, for carers employed by agencies and facilities should be such as to maximize motivation, job satisfaction and continuity, and hence their disposition to fulfil their role in the most appropriate and effective manner.

114. Training should be provided to all carers on the rights of children without parental care and on the specific vulnerability of children, in particularly difficult situations, such as emergency placements or placements outside their area of habitual residence. Cultural, social, gender and religious sensitization should also be assured. States should also provide adequate resources and channels for the recognition of these professionals in order to favour the implementation of these provisions.

115. Training in dealing appropriately with challenging behaviour, including conflict resolution techniques and means to prevent acts of harm or self-harm, should be provided to all care staff employed by agencies and facilities.

116. Agencies and facilities should ensure that, wherever appropriate, carers are prepared to respond to children with special needs, notably those living with HIV/AIDS or other chronic physical or mental illnesses, and children with physical or mental disabilities.

2. Foster care

117. The competent authority or agency should devise a system, and should train concerned staff accordingly, to assess and match the needs of the child with the abilities and resources of potential foster carers and to prepare all concerned for the placement.

118. A pool of accredited foster carers should be identified in each locality who can provide children with care and protection while maintaining ties to family, community and cultural group.

119. Special preparation, support and counselling services for foster carers should be developed and made available to carers at regular intervals, before, during and after the placement.

120. Carers should have, within fostering agencies and other systems involved with children without parental care, the opportunity to make their voice heard and to influence policy.

121. Encouragement should be given to the establishment of associations of foster carers that can provide important mutual support and contribute to practice and policy development.

C. Residential care

122. Facilities providing residential care should be small and be organized around the rights and needs of the child, in a setting as close as possible to a family or small group situation. Their objective should generally be to provide temporary care and to contribute actively to the child's family reintegration or, if this is not possible, to secure his/her stable care in an alternative family setting, including through adoption or *kafala* of Islamic law, where appropriate.

123. Measures should be taken so that, where necessary and appropriate, a child solely in need of protection and alternative care may be accommodated separately from children who are subject to the criminal justice system.

124. The competent national or local authority should establish rigorous screening procedures to ensure that only appropriate admissions to such facilities are made.

125. States should ensure that there are sufficient carers in residential care settings to allow individualized attention and to give the child, where appropriate, the opportunity to bond with a specific carer. Carers should also be deployed within the care setting in such a way as to implement effectively its aims and objectives and ensure child protection.

126. Laws, policies and regulations should prohibit the recruitment and solicitation of children for placement in residential care by agencies, facilities or individuals.

D. Inspection and monitoring

127. Agencies, facilities and professionals involved in care provision should be accountable to a specific public authority, which should ensure, inter alia, frequent inspections comprising both scheduled and unannounced visits, involving discussion with and observation of the staff and the children.

128. To the extent possible and appropriate, inspection functions should include a component of training and capacity-building for care providers.

129. States should be encouraged to ensure that an independent monitoring mechanism is in place, with due consideration for the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris

Principles).[8] The monitoring mechanism should be easily accessible to children, parents and those responsible for children without parental care. The functions of the monitoring mechanism should include:

(*a*) Consulting in conditions of privacy with children in all forms of alternative care, visiting the care settings in which they live and undertaking investigations into any alleged situation of violation of children's rights in those settings, on complaint or on its own initiative;

(*b*) Recommending relevant policies to appropriate authorities with the aim of improving the treatment of children deprived of parental care and ensuring that it is in keeping with the preponderance of research findings on child protection, health, development and care;

(*c*) Submitting proposals and observations concerning draft legislation;

(*d*) Contributing independently to the reporting process under the Convention on the Rights of the Child,[2] including to periodic State party reports to the Committee on the Rights of the Child with regard to the implementation of the present Guidelines.

E. Support for aftercare

130. Agencies and facilities should have a clear policy and should carry out agreed procedures relating to the planned and unplanned conclusion of their work with children to ensure appropriate aftercare and/or follow-up. Throughout the period of care, they should systematically aim at preparing children to assume self-reliance and to integrate fully in the community, notably through the acquisition of social and life skills, which are fostered by participation in the life of the local community.

131. The process of transition from care to aftercare should take into consideration children's gender, age, maturity and particular circumstances and include counselling and support, notably to avoid exploitation. Children leaving care should be encouraged to take part in the planning of aftercare life. Children with special needs, such as disabilities, should benefit from an appropriate support system, ensuring, inter alia, avoidance of unnecessary institutionalization. Both the public and the private sectors should be encouraged, including through incentives, to employ children from different care services, particularly children with special needs.

132. Special efforts should be made to allocate to each child, whenever possible, a specialized person who can facilitate his/her independence when leaving care.

133. Aftercare should be prepared as early as possible in the placement and, in any case, well before the child leaves the care setting.

134. Ongoing educational and vocational training opportunities should be imparted as part of life skills education to young people leaving care in order to help them to become financially independent and generate their own income.

135. Access to social, legal and health services, together with appropriate financial support, should also be provided to young people leaving care and during aftercare.

[8] Resolution 48/134, annex.

VIII. Care provision for children outside their country of habitual residence

A. Placement of a child for care abroad

136. The present Guidelines should apply to all public and private entities and all persons involved in arrangements for a child to be sent for care to a country other than his/her country of habitual residence, whether for medical treatment, temporary hosting, respite care or any other reason.

137. States concerned should ensure that a designated body has responsibility for determining specific standards to be met regarding, in particular, the criteria for selecting carers in the host country and the quality of care and follow-up, as well as for supervising and monitoring the operation of such schemes.

138. To ensure appropriate international cooperation and child protection in such situations, States are encouraged to ratify or accede to the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children, of 19 October 1996.[9]

B. Provision of care for a child already abroad

139. The present Guidelines, as well as other relevant international provisions, should apply to all public and private entities and all persons involved in arrangements for a child needing care while in a country other than his/her country of habitual residence, for whatever reason.

140. Unaccompanied or separated children already abroad should, in principle, enjoy the same level of protection and care as national children in the country concerned.

141. In determining appropriate care provision, the diversity and disparity of unaccompanied or separated children (such as ethnic and migratory background or cultural and religious diversity) should be taken into consideration on a case-by-case basis.

142. Unaccompanied or separated children, including those who arrive irregularly in a country, should not, in principle, be deprived of their liberty solely for having breached any law governing access to and stay within the territory.

143. Child victims of trafficking should neither be detained in police custody nor subjected to penalties for their involvement under compulsion in unlawful activities.

144. As soon as an unaccompanied child is identified, States are strongly encouraged to appoint a guardian or, where necessary, representation by an organization responsible for his/her care and well-being to accompany the child throughout the status determination and decision-making process.

145. As soon as an unaccompanied or separated child is taken into care, all reasonable efforts should be made to trace his/her family and re-establish family ties, when this is in the best interests of the child and would not endanger those involved.

146. In order to assist in planning the future of an unaccompanied or separated child in a manner that best protects his/her rights, relevant State and social service authorities should make all reasonable efforts to procure documentation and information in order to conduct an assessment of the child's risk and social and family conditions in his/her country of habitual residence.

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[9] United Nations, *Treaty Series*, vol. 2204, No. 39130.

147. Unaccompanied or separated children must not be returned to their country of habitual residence:

(*a*) If, following the risk and security assessment, there are reasons to believe that the child's safety and security are in danger;

(*b*) Unless, prior to the return, a suitable caregiver, such as a parent, other relative, other adult caretaker, a Government agency or an authorized agency or facility in the country of origin, has agreed and is able to take responsibility for the child and provide him or her with appropriate care and protection;

(*c*) If, for other reasons, it is not in the best interests of the child, according to the assessment of the competent authorities.

148. With the above aims in mind, cooperation among States, regions, local authorities and civil society associations should be promoted, strengthened and enhanced.

149. The effective involvement of consular services or, failing that, legal representatives of the country of origin should be foreseen, when this is in the best interests of the child and would not endanger the child or his/her family.

150. Those responsible for the welfare of an unaccompanied or separated child should facilitate regular communication between the child and his/her family, except where this is against the child's wishes or is demonstrably not in his/her best interests.

151. Placement with a view to adoption or *kafala* of Islamic law should not be considered a suitable initial option for an unaccompanied or separated child. States are encouraged to consider this option only after efforts to determine the location of his/her parents, extended family or habitual carers have been exhausted.

IX. Care in emergency situations

A. Application of the Guidelines

152. The present Guidelines should continue to apply in situations of emergency arising from natural and man-made disasters, including international and non-international armed conflicts, as well as foreign occupation. Individuals and organizations wishing to work on behalf of children without parental care in emergency situations are strongly encouraged to operate in accordance with the Guidelines.

153. In such circumstances, the State or de facto authorities in the region concerned, the international community and all local, national, foreign and international agencies providing or intending to provide child-focused services should pay special attention:

(*a*) To ensure that all entities and persons involved in responding to unaccompanied or separated children are sufficiently experienced, trained, resourceful and equipped to do so in an appropriate manner;

(*b*) To develop, as necessary, temporary and long-term family-based care;

(*c*) To use residential care only as a temporary measure until family-based care can be developed;

(*d*) To prohibit the establishment of new residential facilities structured to provide simultaneous care to large groups of children on a permanent or long-term basis;

(*e*) To prevent the cross-border displacement of children, except under the circumstances described in paragraph 159 below;

(*f*) To make cooperation with family tracing and reintegration efforts mandatory.

Preventing separation

154. Organizations and authorities should make every effort to prevent the separation of children from their parents or primary caregivers, unless the best interests of the child so require, and ensure that their actions do not inadvertently encourage family separation by providing services and benefits to children alone rather than to families.

155. Separation initiated by the child's parents or other primary caregivers should be prevented by:

(*a*) Ensuring that all households have access to basic food and medical supplies and other services, including education;

(*b*) Limiting the development of residential care options and restricting their use to those situations where it is absolutely necessary.

B. Care arrangements

156. Communities should be assisted in playing an active role in monitoring and responding to care and protection issues facing children in their local context.

157. Care within a child's own community, including fostering, should be encouraged, as it provides continuity in socialization and development.

158. As unaccompanied or separated children may be at heightened risk of abuse and exploitation, monitoring and specific support to carers should be foreseen to ensure their protection.

159. Children in emergency situations should not be moved to a country other than that of their habitual residence for alternative care except temporarily for compelling health, medical or safety reasons. In that case, this should be as close as possible to their home, they should be accompanied by a parent or caregiver known to them, and a clear return plan should be established.

160. Should family reintegration prove impossible within an appropriate period or be deemed contrary to the best interests of the child, stable and definitive solutions, such as adoption or *kafala* of Islamic law, should be envisaged; failing this, other long-term options should be considered, such as foster care or appropriate residential care, including group homes and other supervised living arrangements.

C. Tracing and family reintegration

161. Identifying, registering and documenting unaccompanied or separated children are priorities in any emergency and should be carried out as quickly as possible.

162. Registration activities should be conducted by or under the direct supervision of State authorities and explicitly mandated entities with responsibility for and experience in this task.

163. The confidential nature of the information collected should be respected and systems put in place for safe forwarding and storage of information. Information should only be shared among duly mandated agencies for the purpose of tracing, family reintegration and care.

164. All those engaged in tracing family members or primary legal or customary caregivers should operate within a coordinated system, using standardized forms and mutually compatible procedures, wherever possible. They should ensure that the child and others concerned would not be endangered by their actions.

165. The validity of relationships and the confirmation of the willingness of the child and family members to be reunited must be verified for every child. No action should be taken that may hinder eventual family reintegration, such as adoption, change of name or movement to places far from the family's likely location, until all tracing efforts have been exhausted.

166. Appropriate records of any placement of a child should be made and kept in a safe and secure manner so that reunification can be facilitated in the future.

General Assembly

Distr.: General
1 March 2010

Sixty-fourth session
Agenda item 64

Resolution adopted by the General Assembly

[*on the report of the Third Committee (A/64/434)*]

64/143. Report of the Human Rights Council

The General Assembly,

Having considered the recommendations contained in the report of the Human Rights Council,[1]

Takes note of the report of the Human Rights Council,[1] and acknowledges the recommendations contained therein.

65th plenary meeting
18 December 2009

[1] *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 53* (A/64/53).

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General Assembly

Distr.: General
1 March 2010

Sixty-fourth session
Agenda item 64

Resolution adopted by the General Assembly

[*on the report of the Third Committee (A/64/434)*]

64/144. Office of the President of the Human Rights Council

The General Assembly,

Recalling its resolution 60/251 of 15 March 2006 and Human Rights Council resolution 5/1 of 18 June 2007,[1]

Recalling also Human Rights Council decision 9/103 of 24 September 2008,[2] and underlining the crucial importance of appropriate resources to support the work of the Council and its numerous mechanisms,

Bearing in mind that the Human Rights Council meets regularly throughout the year in no fewer than three sessions per year for a total duration of no less than ten weeks,

Acknowledges the recommendation of the Human Rights Council to establish an Office of the President of the Human Rights Council, and requests the Council to address the question of the establishment and the modalities of an office in the context of the review of its work and functioning five years after its establishment, in accordance with resolution 60/251.

65th plenary meeting
18 December 2009

[1] See *Official Records of the General Assembly, Sixty-second Session, Supplement No. 53* (A/62/53), chap. IV, sect. A.

[2] Ibid., *Sixty-third Session, Supplement No. 53A* (A/63/53/Add.1), chap. II.

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